



Paper No. 14

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OFFICE OF PETITIONS

In re Application of
Davis, et al.
Application No. 09/725,030
Filed: November 29, 2000
Attorney Docket No. N/A
FOR: ANTI-S-PHASE TUBULIN LIGANDS

DECISION DISMISSING
PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2002, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed December 27, 2001, which set a period for reply of three (3) months. Having obtained no extensions of time under 37 CFR 1.136(a), this application became abandoned on March 28, 2002. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

With respect to (1), petitioners have not submitted an acceptable reply to the December 27, 2001 non-final Office action. Status requests will not suffice. An acceptable reply to the December 27, 2001 non-final Office action would be either an amendment or a continuing application. The application cannot be revived until an acceptable reply is submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
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Attn: E. Shirene Willis

By facsimile: (703) 308-6916
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Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.



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